

**REMARKS**

All pending claims in the present application (claims 21-29, 34-37, and 41-42) have been finally rejected in the Office Action of August 2, 2005 (the Office Action). The claims have been rejected under 35 U.S.C. §103(a) as being unpatentable over Himmel et al. (U.S. Patent 6,275,854) in view of Merriman et al. (U.S. Patent 5,948,061). Claims 27-29 have also been rejected under 35 U.S.C. §112 for various formal matters. Each rejection is addressed below, and reconsideration of the claims and their allowance is therefore respectfully requested.

**Rejections under 35 USC §112**

Claims 27-29 have been rejected under 35 U.S.C. §112, second paragraph, as "said subsets" lacks antecedent basis. These claims have been cancelled by this amendment, rendering moot this ground for rejection.

**Rejections under 35 USC §103**

Claims 21-29, 34-37, and 41-42 have been rejected under 35 USC §103(a) as being unpatentable over Himmel et al. USP 6,275,854 (Himmel) in view of Merriman et al. USP 5,948,061 (Merriman). Claims 21 and 22 have been amended herein. All other previously pending claims have been cancelled herein. New claims 43-49 have been added.

Applicant offers here a brief discussion of the general teachings of the present application and the cited references. Following this, a more specific discussion is presented on a claim-by-claim basis, highlighting where specific claim limitations differ from the combination of Himmel and Merriman.

Generally speaking, the present invention is directed to a method of keeping track of a user's interactions with certain types of software objects, and information related thereto. The software objects include addressed content which, while capable of being displayed by a web browser application, is actually rendered independent of and at least partially outside of a web browser application, to thereby allow a content provider to side-step the constraints on presentation of content imposed by traditional web browser user interfaces. The objects may include instructions for invoking a process on the user's computer which is executable independent of a Web browser and a definition that defines at least in part a functionality and an appearance of a user interface outside of a window of a Web browser program and within which the results of the process are presented. Two important concepts merit highlighting here: (1) the software objects (referred to as network information monitors, or NIMs, in the application) are authored in a language typically employed for authoring within the context of a web browser application, with an aim to providing some form of content to a user, and (2) the author of the objects can specify user-computer-resident functionality and appearance appropriate for specific content, without concern for being constrained to display the content within the frame of a web browser user interface.

As a simplified example, an object's user interface may appear as a digital clock, represented as JavaScript computer programming code for rendering same on the user's desktop, the functionality may be JavaScript code which operates to obtain the current time for display on the clock, and the content may be the current time obtained from a website or the user's workstation CPU. Specific controls for the user interface may also be provided, such as a close button, options button, settings, etc. Since the nature of the user interface is dictated by the functionality of the content, providers of content ideally provide the definition of the user interface. Accordingly, the nature of the user interfaces for various objects vary from content to content. Optionally, there may be common attributes to the various user interfaces provided by

content providers, as might be determined by a distributor of objects. But such commonality does not hide the uniqueness of the user interfaces specific to the content they are designed to display.

Content providers, service providers, vendors, and others may find value in knowing when a user interacts with an object (e.g., downloads, views, operates, etc. the object). In particular, valuable information can be obtained from knowing which particular combinations of objects are interacted with, how they are interacted with, when, and for how long. For example, if a user interacts with (for example by viewing) an object relating to sports and in an overlapping time period interacts with (again, for example by viewing) an object relating to books, advertising relevant to the user's interests, namely directed to books about sports, may be made available to the user. The present invention is advantageous in that more relevant and detailed information can be accumulated, in a simpler way, than heretofore possible.

This is in stark contrast to the teachings of the cited references. Principally, the Himmel reference is directed to determining the viewing times for electronic advertisements, such as banner ads, within a single web page. The Himmel system keeps track of the time that a portion of the web page containing the advertisement is in a display window, and from this determines how long the advertisement is viewed. The ads to be tracked must be in a single web page for the Himmel system to operate. Furthermore, the Merriman reference teaches tracking a user's visits to web sites affiliated with an advertiser's web site, and from this tracking determines which targeted advertising to deliver to the user. Prior affiliation must be established for the Merriman teachings to be effective. And finally, each of these references operate within the constraints of a traditional web browser program, and each are centered around tracking the viewing of advertisements.

While these broad statements of the functioning of the present invention and the cited references help us understand how the invention and references are conceptually distinct, clearly the differences must be found in the language of the claims. Accordingly, following is a discussion of the specific rejections, and how and where the language found in the claims of the present application differ from that found in the cited references.

*Previously Pending Claims - Claims 21 and 22*

As stated, claims 21 and 22 have been rejected under 35 USC §103 as being unpatentable over Himmel in view of Merriman. Claim 21 has been amended to recite, in pertinent part:

displaying first addressed content in a first frame having a format and controls which are specific to the first addressed content, the first frame and first addressed content rendered independently from a Web browser program, and wherein display of the first addressed content is at least in part outside of a window of a Web browser program, and further wherein the first addressed content comprises at least a portion of a definition of the first frame;

displaying second addressed content in a second frame having a format and controls which are specific to the second addressed content, the second frame and second addressed content rendered independently from a Web browser program, and wherein display of the second addressed content is at least in part outside of a window of a Web browser program, and further wherein the second addressed content comprises at least a portion of a definition of the second frame;

(claim 21, lines 3-12, as amended, emphasis added).

These limitations distinguish the cited references on several grounds – (1) rendering with, and displaying completely within a typical web browser program; (2) establishing a relationship between tracked objects prior to their tracking; and (3) tracking only a user's viewing of advertisements.

First, Himmel and Merriman track a user's interaction with objects which must be programmed for, rendered with, and displayed completely within a typical web browser program. For example, Himmel describes a method of tracking the viewing of advertisements A-D 606-612 included in web page 194 (col. 8, lines 18-18). Likewise, Merriman tracks the click-through of objects such as banner advertisements "provided to the user's browser." (Merriman, col. 3, lines 53-56.) In both references the tracked objects are clearly not "rendered independently from a Web browser program" nor displayed "at least in part outside of a window of a Web browser program" as claimed in claim 21 (by Web browser program, the present invention refers to fully featured Web browser programs such as Microsoft Internet Explorer, Netscape Browser, Mozilla Firefox, Apple Safari, etc.<sup>1</sup>)

Second, each of the cited references requires that a third party establish a relationship between tracked objects prior to their tracking. Himmel tracks the viewing of items which are themselves displayed within a single web page (col. 8, lines 17-36, etc.) presumably authored by someone other than the user whose actions are being tracked. Indeed, for the system of Himmel to be of value, a web page must include the entire population of advertisements of interest. This assumes the web page designer is already aware of the interests of the user, information which the present invention is in part able to assist in determining. Furthermore, that Himmel's advertisements must be within a single web page precludes tracking a user's viewing of objects which do not coexist in a single web page, overlooking an overwhelmingly significant amount of information. However, these differences between the claims and the Himmel reference are not particularly surprising, as the problem which Himmel aims to solve is how a web page author may charge advertisers based on the viewing of their ads on her web

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<sup>1</sup> As used herein, "Web browser" refers to a software application that enables a user to display and interact with text, images, and other information located on a web page obtained from a website on the World Wide Web. Web browsers provide navigation tools and allow a user to quickly and easily access web pages and websites by traversing hypertext transfer protocol (HTTP) links. (see, [http://en.wikipedia.org/wiki/Web\\_browser](http://en.wikipedia.org/wiki/Web_browser)).

page, not the general problem addressed by the present invention of how to facilitate the derivation of useful knowledge from an analysis of the combinations of objects viewed by a user.

Merriman teaches tracking the viewing of a web page that is affiliated with an advertising server process (col. 2, lines 20-21). Only tracking of advertisements having a pre-established affiliation to the advertising server process, presumably established by someone other than the user whose actions are being tracked, is disclosed by Merriman. Thus, Merriman is similar to Himmel in that it is limited to tracking a user's viewing of a set of objects with a pre-existing relationship. And like Himmel, this pre-existing relationship requirement overlooks a significant source of information which can be obtained about the user. The claims of the present application contain no such limitation. Since neither Himmel nor Merriman address tracking a user's interactions with objects free of any pre-existing relationship (i.e., are not located on the same web page nor previously affiliated with a server process), their combination cannot extend to teaching the tracking of objects with no pre-existing relationship. Claim 21 has no such limitation.

Third, Himmel and Merriman are each limited to tracking a user's viewing of advertisements. Himmel teaches tracking the viewing time of banner ads without requiring a user to actually click through to the advertiser's web site. (Himmel, col. 8, lines 55 to col. 9, line 5.) Merriman teaches tracking a user's click through to an advertiser's web site. (Merriman, col. 3 line 54 to col. 4, line 11.) In each instance, these references track only interactions a user has with advertisements. The limitation to advertisements means that these references are unable to capitalize on relevant information available from other sources. For example, such systems completely miss the opportunities presented by software objects capable of providing information such as the display of stock prices, sports team scores, headline news, music, etc.

The reference's limitation to advertisements must be contrasted with the presently claimed invention, which is capable of tracking interactions with a far richer array of addressed content. Neither Himmel nor Merriman teach or suggest tracking interactions with anything other than advertisements, thus there combination is also so limited.

The highlighted portions of amended claim 21, above, point out that the objects being tracked by the present invention are not mere banner advertisements rendered as part of a web page. Rather, they are a broader class of software objects, each including a definition of a frame for displaying content, and format and controls specific to that content (which do not require a web browser program for rendering, nor are they rendered entirely within the frame of a standard web browser program). Claim 21, lines 3-13, as amended.

Applicant respectfully asserts that for the reasons stated above, claim 21 patentably differs from the cited references. Furthermore, since claim 22 depends from and contains all of the limitations in claim 21, claim 22 differs from the references for the same reasons claim 21 differs therefrom. Accordingly, applicant requests reconsideration of amended claim 21 and claim 22, and prompt allowance thereof.

New claims 43-49

Applicant has added new claims 43 through 49 herein. Support for these claims may be found throughout the application as filed. Claims 43 through 48 depend, directly or indirectly, from and contain all of the limitations found in claim 21. Therefore, applicant asserts that these claims are patentably distinct from the cited references for at least the reasons put forth above with regard to claim 21.

Claim 49, added herein, is directed to a system which includes first and second software objects, each of which include instructions for invoking a process which executes independent

of a web browser program, and a third object which tracks overlapping interactions with the first and second objects. As discussed above, Himmel and Merriman are directed to tracking interactions with objects which are rendered by and with a web browser (i.e., whose rendering is dependent on a web browser program). Since neither reference teaches a system operable independent of a web browser, the combination of the two references cannot teach this feature. Accordingly, claim 49 is distinct from the teachings of Himmel and Merriman taken alone or in combination.

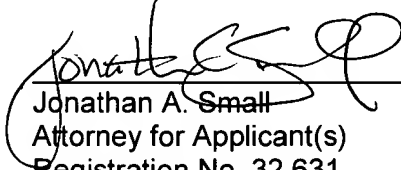
Therefore, applicant asserts that claims 43 through 49 patentably distinguish from Himmel and Merriman, taken alone or in combination with one another. Accordingly, applicant requests consideration and allowance of claims 43-49.

### **CONCLUSION**

In view of the foregoing, applicant believes all claims pending in this application now distinguish over the cited art and are in condition for allowance. The issuance of a formal Notice of Allowance of this application at the earliest possible date is respectfully requested.

If the Examiner believes that a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-941-4470.

Respectfully submitted,

  
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